

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Knowles Electronics LLC,

Plaintiff,

v.

Analog Devices, Inc.,

Defendant.

Civil Action No. 09-6238

Judge Robert W. Gettleman  
Magistrate Judge Nan R. Nolan

**JURY TRIAL DEMANDED**

**DEFENDANT ANALOG DEVICES, INC.'S UNOPPOSED MOTION TO STAY  
PENDING INVESTIGATION BY THE UNITED STATES  
INTERNATIONAL TRADE COMMISSION**

Defendant Analog Devices, Inc. ("Analog") respectfully requests that the Court stay this matter until the determination of the United States International Trade Commission (the "ITC") becomes final in *In the Matter of Certain Silicon Microphone Packages and Products Containing the Same*, Investigation No. 337-2694. That investigation overlaps with this case; in both matters Knowles Electronics LLC ("Knowles") is accusing Analog of infringing the same patents. Analog is statutorily entitled to a stay under such circumstances, and counsel for Knowles has indicated that it does not oppose this motion.

**FACTUAL BACKGROUND**

Knowles filed the Complaint in this case on October 6, 2009. The Complaint alleged infringement of U.S. Patent Nos. 6,781,231 and U.S. Patent 7,242,089 (collectively, the "Patents-In-Suit"). As of the date of this motion, Analog has not yet responded to the Complaint,<sup>1</sup> the

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<sup>1</sup> The Court recently granted Analog's motion for extension of time, until January 8, 2010, pending the ITC's decision on Knowles' proposed investigation.

Court has not yet set a schedule (or held a scheduling conference), and there has not been any substantive motion practice.

On November 12, 2009, Knowles filed a Complaint with the ITC against Analog asserting infringement of the Patents-In-Suit. On December 16, 2009, the ITC issued a “Notice of Investigation,” which formally named Analog as the Respondent and opened an investigation captioned *In the Matter of Certain Silicon Microphone Packages and Products Containing the Same*. (See Exhibit A.)

### **ARGUMENT**

Analog is statutorily entitled to a stay until such time as the ITC’s determination becomes final in *In the Matter of Certain Silicon Microphone Packages and Products Containing the Same*, Investigation No. 337-2694. 28 U.S.C. § 1659(a) provides that:

In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within (1) 30 days after the party is named as a respondent in the proceeding before the Commission, or (2) 30 days after the district court action is filed, whichever is later. (emphasis added).

Analog’s request meets all of the statutory criteria. First, the parties in this case and *In the Matter of Certain Silicon Microphone Packages and Products Containing the Same*, Investigation No. 337-2694, which is proceeding under Section 337 of the Tariff Act of 1930, are identical. Second, Analog’s request is well before the 30 day deadline; Analog was not “named as a respondent” until December 16, 2009, the day that the ITC issued its “Notice of

Investigation.”

Because each of the requirements of 28 U.S.C. § 1659(a) is satisfied, Analog respectfully submits that the Court should enter an Order staying this case. *See* 28 U.S.C. § 1659(a); *see also In re Pirnco Corp.*, 478 F.3d 1345, 1355-56 (Fed. Cir. 2007) (granting writ of mandamus and directing district court to stay case until the ITC’s decision, including appeals, is no longer subject to judicial review).

### CONCLUSION

**WHEREFORE**, Analog respectfully requests that the Court grant its unopposed motion and enter an Order staying this case until the ITC’s determination becomes final in *In the Matter of Certain Silicon Microphone Packages and Products Containing the Same*, Investigation No. 337-2694.

Dated: December 21, 2009

Respectfully submitted,

/s/ Catherine J. Spector

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**CERTIFICATE OF SERVICE**

I, Catherine J. Spector, an attorney, hereby certify that on December 21, 2009, I caused a copy of the foregoing document to be filed and served on the following attorneys via the Court's electronic filing system:

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